

SPECIAL CIVIL APPLICATION NOS. 8613 OF 1990, 8614 OF 1990 AND 8615 OF 1990.

Date of decision: 2.7.1996.

For approval and signature

The Honourable Mr. Justice B.C. Patel

The Honourable Mr. Justice R. R. Jain

Mr. S.K. Bukhari, advocate for petitioners in all petitions.

Mr. Kamal M. Mehta, A.G.P. for respondent Nos.1 and 2 in all petitions.

Mr. R.P. Bhatt, Senior Advocate for M/s.M.R. Bhatt & Co. for respondent No.3 in all petitions.

1. Whether Reporters of Local Papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

Coram:B.C.Patel & R.R.Jain,JJ.

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July 2, 1996.

Oral judgment (Per Patel, J.)

These three petitions are preferred by different petitioners for quashing and setting aside notifications issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act').

The short facts pertaining to three cases are as under:

In Special Civil Application No.8613 of 1990, respondent State issued notification under section 4 of the Act on 15.6.1989 for acquiring agricultural lands bearing S.No.130 situated in village Bajwa, Taluka and District Baroda. Inquiry contemplated under Section 5A of the Act came to be completed and considering the report made under Section 5A (2) by the officer conducting inquiry, the State Government, on being satisfied, declared that the land is needed for public purpose and issued notification under Section 6 of the Act on 28.8.1990 which has been published in newspaper on 8.9.1990. With regard to the land which is subject matter of Special Civil Application No.8614 of 1990, notification under section 4 of the Act was published in accordance with law on 3.7.1989 vide Annexure A to the petition and after following the procedure notification under section 6 of the Act was published on 8.9.1990. In Special Civil Application No.8615 of 1990 in the same way notifications have been published under sections 4 and 6 of the Act in accordance with law and there is no dispute by the petitioners in this behalf.

Thus, after following the due procedure, notifications under section 6 of the Act have been issued. But the learned advocate has raised the ground that the land sought to be acquired falls in the green belt, In this behalf objections have been raised by the petitioners before the Special Land Acquisition Officer and as stated earlier, the report has been considered and after being satisfied, notification under section 6 of the Act has been issued. Even if the land is included in the green belt, the State Government has power to vary the scheme under the Gujarat Town Planning and Urban Development Act and, therefore, we find no merits in this contention raised by the learned advocate for the petitioners.

It is required to be noted that notification under section 6 of the Act has been issued in the year 1990 and no stay has been granted by this court. Mr. Bukhari, learned advocate for the petitioners, submitted that the petitioners have also preferred applications under section 18 of the Act and thus acquisition proceedings have been completed and once the proceedings have been

completed, the lands covered under notification vest in the Government. Thus, in view of aforesaid facts, we would not like to entertain the petitions by granting writ as prayed for.

Hence, applications are rejected. Rule is discharged. There shall be no order as to costs.